

F.2d 184, 187 (11th Cir. 1987) (“a default judgment is not contemplated in habeas corpus cases”); *Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970) (“Rule 55(a) has no application in habeas corpus cases”); *Garland v. Warden*, Civil Action No. 4:08-1668-JFA-TER, 2008 WL 4834597 (D.S.C. Nov. 4, 2008). Thus, default judgment is not a remedy available to Petitioner.

Moreover, Respondent is not in default. Respondent filed a motion for summary judgment with respect to Plaintiff's Petition on August 7, 2014. [Doc. 23.] Respondent argued that the Petition should be dismissed for failure to exhaust Ground Four. [Doc. 24 at 7–9.] On March 2, 2015, the Honorable R. Bryan Harwell denied Respondent's motion for summary judgment without prejudice and granted Respondent leave to refile the motion within thirty days. [Doc. 36.] In that Order, Judge Harwell specifically found that Respondent has not defaulted in this case. [*Id.* at 4.]

Wherefore, based on the above, the Court recommends that Petitioner's motion for default judgment be DENIED.

IT IS SO RECOMMENDED.

s/Jacquelyn D. Austin
United States Magistrate Judge

March 5, 2015
Greenville, South Carolina